

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :
 : Case Number
vs. : 1:12-CR-00107
 : (Judge Rambo)
TERLAZZO WILTSHIRE, :
Defendant :

TRANSCRIPT OF PROCEEDINGS
IN RE: SENTENCING

Before: HONORABLE SYLVIA H. RAMBO

Date : August 7, 2013; 10:35 a.m.

Place : Courtroom Number 3, 8th Floor
Federal Building
228 Walnut Street
Harrisburg, Pennsylvania

COUNSEL PRESENT:

UNITED STATES ATTORNEY'S OFFICE
BY: WILLIAM A. BEHE, ASSISTANT U.S. ATTORNEY

For - Government

KENT D. WATKINS, ESQ.

For - Defendant

ALSO PRESENT:

REBEKAH LICHTENBERGER, U.S. PROBATION OFFICER

Lori A. Shuey, RMR, CRR
Federal Official Court Reporter

1 THE COURT: Mr. Behe.

2 MR. BEHE: Yes, Your Honor, this is the time and place
3 set by the court for sentencing in the matter of the *United*
4 *States of America v. Terlazzo Wiltshire*, which is at this
5 Court's Criminal Docket Number 12-107, Defendant Number 1.
6 Mr. Wiltshire is present in court, along with counsel,
7 Mr. Watkins.

8 This matter had been before the court last week and I
9 believe continued to this week because of some unanswered
10 questions, but we're ready to proceed at this point.

11 THE COURT: Mr. Wiltshire.

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Have you read the presentence report that
14 was filed in this case along with any amendments thereto?

15 THE DEFENDANT: Not all of it, no.

16 THE COURT: You haven't?

17 THE DEFENDANT: Just what I received today.

18 MR. WATKINS: No, that's mine. She said the PSI.

19 THE DEFENDANT: Oh, yes, I read it when it was given
20 to me last time.

21 THE COURT: There have been no objections filed. Are
22 you satisfied with the report as filed?

23 THE DEFENDANT: No, I'm not satisfied, Your Honor.

24 THE COURT: What's your objection?

25 THE DEFENDANT: My objection is my actual point level.

1 I was -- in 1998, '99, I was sentenced to 13 years in prison.
2 Following my sentence, I had charges of burglary, grand
3 larceny, and at the age of 15, I had a sex abuse that I
4 received probation for.

5 When I was sentenced, the judge ran all my charges
6 concurrent. And after looking at my points now, it's -- like,
7 I received three points for each additional charge when they
8 were all ran concurrent.

9 THE COURT: Which charges are they, now? Show him the
10 report.

11 MR. WATKINS: Page 6. It's Page 6 and 7.

12 THE COURT: I've got six, but six only has one sexual
13 abuse.

14 MR. WATKINS: On Page 7 then.

15 THE COURT: But those were a different year.

16 MR. WATKINS: That's what I had said. Mr. Wiltshire
17 keeps telling me -- and I have not been able to confirm -- that
18 he was sentenced to concurrent sentences. And according to the
19 presentence report, he was sentenced on different days.

20 THE COURT: Days and different dates.

21 MR. WATKINS: Different arrest dates and different
22 sentencing days. He said they were all run concurrent. Maybe
23 the final sentence did run them all concurrent, but that
24 doesn't change the fact of the different sentencings. That's
25 my interpretation of it.

1 THE COURT: Do you have any information?

2 PROBATION OFFICER: Your Honor, what defense
3 counsel -- I believe he's correct in what he's saying. They
4 may have been run concurrently, but under the guidelines,
5 they're --

6 THE COURT: They're separate counts.

7 PROBATION OFFICER: Right, counted separately,
8 correct.

9 THE COURT: Okay. Any other objections?

10 THE DEFENDANT: Yes. Also -- I'm sorry, Your Honor,
11 it's just -- I'm a little disturbed right now. Also prior
12 to some new incident that occurred, I would like to take a
13 moment to address the court about it.

14 THE COURT: I'm not interested in -- you are charged,
15 are you not?

16 THE DEFENDANT: Yes, I was charged.

17 THE COURT: Have you read the memorandum dated
18 July 8th, 2013?

19 MR. WATKINS: That's the one amendment that talks
20 about your new arrest.

21 THE DEFENDANT: This here?

22 THE COURT: You've read that?

23 MR. WATKINS: No, that's what I prepared. The thing
24 that was sent by the probation office, I sent you a copy --

25 THE DEFENDANT: Oh, yes. Yes, I read it.

1 MR. WATKINS: -- that talks about your new arrest.

2 THE DEFENDANT: I read it.

3 THE COURT: Now, I am not interested in hearing
4 whether you're guilty or innocent of those because I am not the
5 judge on that. But you were charged and arrested by the
6 Pennsylvania State Police in Wyoming, Pennsylvania?

7 THE DEFENDANT: Yes. My thing, Your Honor, is that at
8 the time of this arrest, I was actually doing work for a
9 federal marshal, and I was trying to explain to the arresting
10 officer the work I was doing.

11 When I went to the precinct, they made it like, you
12 know, well, this is the state, you have to deal with that in
13 the federal. I explained to him that I've been working with
14 this federal marshal since March 7th and been in constant
15 contact with him and have gathered up so much information.

16 THE COURT: You're saying that these are charges that
17 you did as an undercover or --

18 THE DEFENDANT: Yes, yes. They stated that they had
19 surveillance, and I asked if it was possible that you guys can
20 actually observe the surveillance, because not one time have I
21 ever sold anybody any drugs. When I told this to the state
22 trooper, he told me, well, you have to deal with that with
23 federal, this is state.

24 THE COURT: Mr. Behe, do you know of anything, whether
25 he was acting undercover?

1 MR. BEHE: By way of proffer, I spoke directly to the
2 arresting trooper who was involved, and there were two
3 controlled purchases of crack cocaine on successive dates.
4 One, the sale was made directly by the defendant in the company
5 of a woman who is a co-defendant, I think, in the case or is
6 named in this case. And the next day the sale occurred with
7 the defendant driving the woman to meet with the confidential
8 informant, and they went into a ladies' room where the drugs
9 were sold.

10 When the police came out to arrest Mr. Wiltshire and
11 the young lady who was with him, she discarded a package of
12 heroin and Ecstasy, and both were arrested.

13 The first sale was a direct sale of approximately an
14 eightball of crack by the defendant to a confidential
15 informant. Both sales were arranged over the telephone
16 directly with Mr. Wiltshire.

17 THE COURT: And he was not an undercover person?

18 MR. BEHE: No.

19 THE COURT: Okay.

20 MR. BEHE: And if the marshal were here, he would say
21 that he never, ever authorized anyone to distribute drugs,
22 would never authorize anyone to distribute drugs, did not tell
23 him to freelance or do whatever he might have been doing on
24 this occasion.

25 The defendant was trying to say that he was going to

1 infiltrate the Crips or the Bloods gangs. He was told not to
2 do that, not to be involved in that.

3 Now, he did, in fact, assist in the arrest of two
4 federal fugitives, three local fugitives, was up in the
5 Wilkes-Barre --

6 THE COURT: Not related to this episode?

7 MR. BEHE: No, no, it had nothing to do -- nobody had
8 any idea what was occurring this evening except the state
9 trooper who had information that the defendant was involved in
10 selling crack and they purchased crack from him on one occasion
11 directly and then the second occasion arranged over the phone,
12 and he drove the same girl who was with him the previous
13 evening to sell the crack to the CI the second occasion, and
14 they arrested him right there on the spot.

15 THE COURT: Who is the marshal?

16 MR. BEHE: Gary Duncan from Harrisburg.

17 THE COURT: Gary.

18 MR. BEHE: And he referred Mr. Wiltshire, because he
19 had information about goings-on in the Wilkes-Barre area, up to
20 the marshals in the Scranton area.

21 There's no doubt he was helping with fugitives, and it
22 would have been great for his sentencing had he not gone out
23 and freelanced and been involved in drug trafficking, but
24 that's the allegations, that's the evidence that the trooper
25 has, and that's why we haven't filed a 5K1 motion.

1 Now, I know he's in a not-guilty posture. I don't
2 know whether the court can consider a new charge where he's
3 maintaining his innocence as a reason to take away acceptance
4 of responsibility, but it certainly is a reason for the United
5 States Attorney to conclude that based on that conduct, a 5K1
6 motion wouldn't be filed.

7 I've had instances where individuals have been
8 charged, they still have preliminary hearings and they're still
9 maintaining their innocence, and it's been difficult to deny
10 them acceptance when they're saying, I'm not guilty of that
11 offense.

12 THE COURT: I've done some research on this, and it's
13 split among the circuits, many of them indicating that if it's
14 a different charge not related to anything that he's now
15 currently charged with, that I shouldn't deny the acceptance of
16 responsibility. However -- and he hasn't been tried yet on the
17 charges.

18 MR. BEHE: He waived a felony and a misdemeanor into
19 court, and all the other charges were dismissed, kind of
20 horse-trading at the preliminary hearing.

21 THE COURT: I think in order to keep the record clear,
22 I probably will give him acceptance of responsibility and not
23 deny it based on his apparent plea of not guilty to these
24 charges.

25 MR. BEHE: So we would be at a 151 to 188.

1 THE COURT: 151.

2 MR. BEHE: To 188 range.

3 THE COURT: To --

4 MR. BEHE: 188 I believe is the upper end.

5 THE COURT: It's -- hold on.

6 MR. WATKINS: 151 to 188 --

7 THE COURT: 188.

8 MR. WATKINS: -- under a category six --

9 THE COURT: Six.

10 MR. WATKINS: -- is the guidelines, Your Honor.

11 THE COURT: It's 151 to 188.

12 MR. BEHE: Criminal history category six because of
13 the determination that he is a career offender.

14 THE COURT: Category six. So that's what I'll go by.

15 MR. WATKINS: Your Honor, I had prepared a memorandum.

16 THE COURT: It's too late now. I should have had it
17 before today. I think there's a rule of five days before
18 sentencing.

19 MR. WATKINS: Okay.

20 THE COURT: You may speak on his behalf, however.

21 MR. WATKINS: Your Honor, as Mr. Behe said, he was
22 working with the federal agents. He had also been in touch
23 with Bill Cook from the DEA, Mr. Behe confirmed this, about
24 some drug activity in the Wilkes-Barre area.

25 Mr. Duncan was here the last time. My understanding

1 was that Mr. Duncan was aware of what Mr. Wiltshire was doing
2 with Sherri Dixon, who is the woman involved in this case. The
3 affidavit of probable cause of the -- is somewhat different
4 from what the police represented to the U.S. Attorney's Office
5 and the probation office.

6 I had discussed -- sent a copy to Mr. Behe. It
7 indicates that Sherri Dixon was the person who made the deal,
8 she had the money, and that --

9 THE COURT: Well, I'm not going to deny him --

10 MR. WATKINS: I understand.

11 THE COURT: -- acceptance, so there's no need to go
12 into the facts of the underlying charges he's facing in state
13 court.

14 MR. WATKINS: Well, I was just -- the fact that he was
15 working for the government, I had asked for a departure in
16 consideration of that. I know that the new charge is still
17 pending and the decision is split and it's totally
18 discretionary with the court, but that was my representation.

19 THE COURT: Now, did he honor the agreement to
20 cooperate at all, Mr. Behe?

21 MR. BEHE: Oh, yes. According to Agent Duncan, he was
22 responsible for or at least his girlfriend assisted, as well --
23 in an email message from Mr. Duncan yesterday, he confirmed
24 that Mr. Wiltshire is responsible for two federal -- the arrest
25 of two federal fugitives and the arrest of three local

1 fugitives, as well.

2 And then, as I said, because of the information he had
3 provided about activity in the Wilkes-Barre area, he was up in
4 that area and was to be assisting the United States Marshals
5 Service, but there wouldn't be an agent, a witness, a deputy
6 marshal who would ever condone somebody freelancing and selling
7 that.

8 Like I said, it's regrettable, because he had been
9 doing very good work in their assistance -- or in his
10 assistance to the U.S. Marshals. I guess the court can
11 consider that as a variance if you wanted to. But that kind of
12 ties our hands in the U.S. Attorney's Office in terms of --

13 THE COURT: Understand.

14 MR. BEHE: -- whether we think that would warrant a
15 5K1 motion.

16 THE COURT: Okay. Anything else you wish to --

17 MR. WATKINS: Not I personally, Mr. Wiltshire.

18 THE COURT: You may speak on your own behalf.

19 THE DEFENDANT: One more thing, Your Honor. I also
20 wanted to speak as far as the chemical balance of my original
21 charge that I took the plea for.

22 THE COURT: The what?

23 THE DEFENDANT: The chemical balance of the crack
24 cocaine that I was originally charged for, that I'm here for
25 today. It was at 24 grams, but I never -- well, my lawyer

1 asked if he can get the cut base of it. I remember one time
2 that you did ask the district attorney for it. But that was,
3 like, in the earlier stages of, you know, me first coming to
4 court.

5 THE COURT: I'm not too sure what he's asking.

6 THE DEFENDANT: I was actually arrested for 24 grams
7 of crack cocaine.

8 THE COURT: Correct.

9 THE DEFENDANT: And I was asking my lawyer to present
10 the chemical base, the cut that was actually in the crack
11 cocaine, because they have it at its full weight, which is
12 24 grams. They're saying that it was 24 grams of crack
13 cocaine, which was actually not --

14 THE COURT: That's the way the guidelines run.

15 MR. BEHE: Not only the guidelines, but the statutes
16 talk about a mixture or substance --

17 THE COURT: Mixture.

18 THE DEFENDANT: Right, the mixture or substance.

19 MR. BEHE: -- containing a detectable amount. So that
20 all of the substance is counted regardless of what the actual
21 amount of drug is.

22 MR. WATKINS: I explained this to Mr. Wiltshire. He's
23 talking about purity, I think is what he meant by the cut.

24 THE COURT: But the statute and the guidelines say a
25 detectable amount, and the whole amount gets weighed.

1 MR. WATKINS: I explained that to Mr. Wiltshire.

2 THE DEFENDANT: I just -- I wasn't familiar with it,
3 so I just wanted to speak on it. Thank you.

4 THE COURT: Anything else?

5 THE DEFENDANT: That's it, Your Honor. Thank you.

6 THE COURT: Mr. Behe.

7 MR. BEHE: Nothing, Your Honor, beyond the fact that
8 Mr. Wiltshire did live up to his agreement and assist the
9 marshals in apprehending the two fugitives that they had been
10 looking for for a good while and the three local fugitives.

11 Mr. Wiltshire, though, was a substantial drug
12 trafficker, and if Your Honor will recall, his involvement with
13 the local authorities and the DEA was in a two-step process.
14 They caught him originally, he agreed to cooperate, and then he
15 disappeared. They caught him again when he was back in the
16 area dealing drugs again.

17 So while he was out on bail from the other activities,
18 he became involved again, and which led to his charge. But
19 then he did cooperate. I defer to the court on the request for
20 a variance. That's all I would have.

21 THE COURT: Enter this order: Now, this 7th day of
22 August, the year 2013, the defendant appearing in court for
23 purposes of sentencing, pursuant to the Sentencing Reform Act
24 of 1984 and after having considered the factors set forth in 18
25 U.S.C. Section 3553(a), it is the judgment of the court that

1 the defendant, Terlazzo Wiltshire, is hereby committed to the
2 custody of the Bureau of Prisons to be imprisoned for a term of
3 151 months.

4 The court finds that the defendant has the ability to
5 pay a fine. It is ordered that the defendant shall pay to the
6 Clerk, U.S. District Court, the sum of \$1100 consisting of a
7 special assessment of \$100 due immediately and a fine of
8 \$1,000.

9 During the term of imprisonment, the fine is payable
10 every three months in an amount after a telephone allowance
11 equal to 50 percent of the funds deposited into the defendant's
12 inmate trust fund account.

13 In the event the fine is not paid in full prior to the
14 commencement of supervised release, the defendant shall, as a
15 condition of supervised release, satisfy the amount due in
16 monthly installments of no less than \$50 to commence 30 days
17 after release from confinement.

18 Upon release from imprisonment, the defendant shall be
19 placed on supervised release for a term of three years. The
20 defendant shall report in person to the probation office in the
21 district to which the defendant is released within 72 hours of
22 release from custody.

23 While on supervised release, the defendant shall not
24 commit another federal, state, or local crime and shall not
25 possess a dangerous weapon.

1 The defendant shall comply with the standard
2 conditions that have been adopted by this court and shall
3 comply with the following additional conditions:

4 One, defendant shall submit to one drug test within 15
5 days of release from custody and at least two periodic drug
6 tests thereafter.

7 Two, defendant shall cooperate in the collection of a
8 DNA sample as directed by the probation officer unless one was
9 collected during imprisonment.

10 Three, defendant shall undergo a substance abuse
11 evaluation, and, if recommended, the defendant shall
12 satisfactorily complete a program of outpatient or inpatient
13 substance abuse treatment.

14 Four, defendant shall not incur new credit charges or
15 open additional lines of credit without the approval of the
16 probation officer unless the defendant is in compliance with
17 the installment schedule for payment of restitution, fines, or
18 special assessments.

19 Five, defendant shall provide the probation officer
20 with access to any requested financial information.

21 And, six, defendant shall apply all monies received
22 from income tax refunds, lottery winnings, judgments, and/or
23 other anticipated or unexpected financial gains to the
24 outstanding court-ordered financial obligations.

25 The following statement of reasons is placed on the

1 record for the sentence that has been imposed: The court
2 adopts the original presentence investigation report without
3 change. Does this carry a mandatory minimum?

4 PROBATION OFFICER: No, Your Honor.

5 THE COURT: Okay. No count of conviction carries a
6 mandatory minimum. The fine is below the guideline range
7 because of the defendant's inability to pay. The sentence is
8 within the guideline range, and that range is greater than 24
9 months.

10 The court has imposed the sentence for the following
11 reasons: One, this defendant was involved in a substantial
12 amount of cocaine, both powder and crack cocaine. The court
13 recognizes that he initially did cooperate with the government,
14 but his conduct prior to sentencing, while the court did not
15 take away his acceptance of responsibility three-point
16 reduction, I do consider that in sentencing him to the minimum
17 of the guideline range and will not grant the requested
18 variance for the aforesaid reasons.

19 Now, you can appeal your conviction if you believe
20 that your guilty plea was somehow unlawful or involuntary or
21 there was some other fundamental defect in these proceedings
22 that was not waived by your guilty plea. You also have a
23 statutory right to appeal your sentence under certain
24 circumstances, particularly if you think the sentence is
25 contrary to law.

1 You have 14 days from this day in which to file a
2 Notice of Appeal. If you're unable to pay the costs of an
3 appeal, you may apply for leave to appeal in forma pauperis.
4 You may also request the Clerk of Court to prepare and file a
5 Notice of Appeal on your behalf. I believe there are counts to
6 be -- I'm sorry.

7 PROBATION OFFICER: Your Honor, may I approach?

8 THE COURT: Yes.

9 (Discussion held off the record at sidebar.)

10 THE COURT: I need to make a correction. There was a
11 new statement of reasons supplied which took into account the
12 deletion of acceptance of responsibility.

13 So for the statement of reasons, the court adopts the
14 presentence investigation report with the following reasons:
15 There's a change in Chapter 3 because the court reinstituted a
16 three-point reduction for acceptance of responsibility, which
17 would give you the 151 to 188, I think it is.

18 MR. BEHE: Yes, it's 151 to 188, Your Honor.

19 THE COURT: I just needed to change the statement of
20 reasons.

21 MR. BEHE: Mr. Wiltshire has some lingering concerns
22 about the composition of the presentence investigation report
23 thinking that he really should be sentenced under an offense
24 level 26 as opposed to 29.

25 I'm trying to point out to him that because he's a

1 career offender with an offense that is 20 years or more, he
2 started at level 32. When he receives a three-level off for
3 acceptance, that's what took him to level 29. He doesn't go to
4 level 26. So a 29, category six, is a 151 to 188 range. If
5 the presentence report --

6 MR. WATKINS: No, the presentence report reflects on
7 Page 6 that the offense level is 29 and includes an increase of
8 three levels for acceptance of responsibility.

9 MR. BEHE: All right. I hope that answers your
10 question.

11 THE COURT: Does he have a copy of the presentence
12 report?

13 MR. WATKINS: Yes, he has a copy of the presentence
14 report and the addendum. And we met -- actually, we met in
15 Wilkes-Barre to go over it when his original sentencing date
16 was scheduled. But then the government asked him to stay out
17 longer, I think it was in May, to stay out longer to do more
18 work for them. And that's when we covered that. The addendum,
19 of course, came more recently.

20 THE COURT: Right.

21 MR. WATKINS: But he was sent a copy of that, also.

22 THE COURT: The addendum was based on removing the
23 acceptance of responsibility.

24 MR. WATKINS: Yes.

25 THE COURT: And, of course, I'm not accepting that.

1 MR. BEHE: I would also ask to dismiss Counts 2, 3,
2 and 4. He pled guilty to Count 1 of the indictment, Your
3 Honor.

4 THE COURT: Counts 2, 3, and 4 are dismissed. You had
5 something you wanted to say?

6 THE DEFENDANT: Yes, Your Honor. I just wanted to say
7 to you and the courts that I appreciate what was done for me of
8 me being released. There's a lot that's not being said today,
9 and I think it's unfair, because for every day I was out there,
10 I did work and I risked my life.

11 And I must admit, Gary Duncan, he did reach out to the
12 officers in Wilkes-Barre, and nobody done anything. I could
13 have came and got sentenced. If you notice, I had a date and
14 it was adjourned, July 30th. It was because of the work I was
15 doing and because I was on hold and people was telling me that
16 they're gonna contact me and do all this.

17 And every day I was out there, and I sent them texts
18 and everything concerning -- I just don't -- you know, it just
19 hurts, because I could have died out there. And I told them --
20 every day I told them what I did. I told them when I went to
21 see my kids, I told them that I was gonna try to get a job. I
22 was doing everything right.

23 I don't know what person or the state got with this
24 federal stuff, but that's what he made it to be, like, you
25 know, well, this is the state, you have to deal with it in the

1 federal. And it's shining a bad light on me because I didn't
2 sell anybody any drugs.

3 THE COURT: Well, I cannot force the government to
4 file a 5K1.1. However, I do have the ability to take into
5 consideration what cooperation you did. However, I've done
6 that by granting you the low end of the guideline, and I don't
7 think, in light of the facts concerning your other conduct out
8 there -- while I did not take away your acceptance of
9 responsibility, you have apparently engaged in some conduct
10 that I don't think I should give you credit as a variance.

11 THE DEFENDANT: But I was being told if I was to catch
12 this fugitive, there's a possibility I can get probation.
13 Like, that's what I said, there was a whole bunch of things
14 said. I don't know what's going on today.

15 THE COURT: When I took your plea, I asked you whether
16 or not anybody made any promises of any kind to you, including
17 whether anybody promised you what your sentence would be, and
18 you said no.

19 THE DEFENDANT: No, this is recent. This is when I
20 was released. You released me on March 7th. And this is why
21 I'm here. Like, it just hurts because it's like I feel like
22 I'm not being heard. And I'm not lying about this. I did
23 everything I can do, and I stayed in contact with Gary Duncan
24 three to four days out of the week, as many days -- I could
25 have been home with my family. I was just told to go out there

1 and get another fugitive, one that I got while I was in prison,
2 and the other one I was supposed to get, I've done that.

3 And I was told that, you know, if I was to do that,
4 since both clients was on Behe's, you know, caseload, that it
5 would benefit me, that, you know, it would look good for me,
6 possibly I can get probation. I actually stayed out there --

7 THE COURT: You would not get probation on the amount
8 of drugs that you distributed.

9 THE DEFENDANT: But I'm just speaking what's going on,
10 Your Honor. I mean --

11 MR. BEHE: Can you identify on the record who told you
12 you could get probation? Because I've never spoken to you. I
13 would never promise -- I never promise anybody --

14 THE DEFENDANT: I didn't say you, sir.

15 MR. BEHE: Okay. Well, can you identify --

16 THE DEFENDANT: Who you was in contact with is who
17 told me this, and that's why I actually went to the
18 Wilkes-Barre --

19 THE COURT: Who told you that?

20 THE DEFENDANT: Gary Duncan told me.

21 MR. BEHE: Gary Duncan told you if you assisted in --

22 THE DEFENDANT: He said --

23 MR. BEHE: Let me finish. I want to make sure I
24 understand. Gary Duncan told you if you assisted in getting
25 fugitives, you could go from a guideline imprisonment range of

1 around 20 years down to probation? You could get a
2 probationary sentence?

3 THE DEFENDANT: He told me Nice. He told me Nice. I
4 got him Maurice Henderson, and there was another guy that, from
5 my understanding, is under your file, which is -- I don't know
6 his government name, but he go by the name of Nice.

7 And I went out there and did what I had to do, and I
8 found out that he was in the Poconos area and that he sold
9 Oxycontin to a guy that passed away by taking the medicine.

10 Gary texted me and told me that -- he said, we got
11 Nice, and he said, I'm gonna give you all the credit and
12 everything for it. I said, all right.

13 THE COURT: Maybe I need Mr. Duncan here.

14 MR. BEHE: I still didn't get an answer to my
15 question.

16 THE DEFENDANT: I just told you.

17 MR. BEHE: No, you're telling me what you did. I'm
18 asking you what Gary Duncan said. Did Gary Duncan tell you
19 that if you assisted, you could get probation?

20 THE DEFENDANT: He said Nice. He said, you out there,
21 I'm not worrying about anything else, no drugs. He said that
22 if you get Nice, that's the big fish that will help you get
23 probation.

24 THE COURT: You hope you get probation?

25 THE DEFENDANT: No, he said it will get you probation.

1 He said that --

2 MR. BEHE: Is that in a text message, or is it in a
3 voice conversation?

4 THE DEFENDANT: Both, through text and through voice.
5 He told me that the guy -- that both guys was under Behe's, you
6 know, caseload. It was one Maurice Dickinson, he told me that
7 this is the guy that Behe wants, that's what he's focused on.

8 The reason why he directed me to the drug DEA in
9 Scranton is because he said he don't deal with drugs, he deal
10 with fugitives. And I said, all right. And that's why I
11 started working on catching more fugitives.

12 That was just the whole situation. That's why I'm
13 here today. And it's like -- I just feel like I'm being closed
14 in, and nobody is not speaking on my behalf, because there was
15 more done than what you're hearing today.

16 MR. BEHE: Well, whether he did more or not is -- I
17 don't know what more I could say about what he did to
18 cooperate. I told the court he cooperated.

19 The thing that prevented him from getting the 5K1
20 motion is the information from the trooper that they had a
21 direct buy from the defendant of crack cocaine.

22 I can't construct any scenario where any agent, deputy
23 marshal, local officer, would tell somebody, you're authorized
24 to sell drugs to somebody else without the knowledge of the
25 people that you're working with.

1 And in this case, as Mr. Watkins can confirm, even
2 though his comments might not have been as clear on that, the
3 affidavit of probable cause does state specifically that
4 Mr. Wiltshire engaged in a hand-to-hand sale of crack cocaine
5 to a confidential informant.

6 THE DEFENDANT: And it also say that I was under
7 surveillance.

8 THE COURT: Let him finish. Don't interrupt.

9 THE DEFENDANT: I'm sorry.

10 MR. BEHE: I spoke directly to the trooper to find out
11 what it was, was this dismissed at the hearing, because there
12 were no -- he said no, things were waived into court. We
13 dismissed other things because the public defender's office
14 said you have to deal -- you have a more serious matter pending
15 in federal court, we'll just waive in the one felony. But you
16 were on a track to getting a 5K1 motion until the Pennsylvania
17 State Police arrested you for selling drugs.

18 Now, I don't know what anybody promised you, what
19 anybody represented to you that you would get, but you can at
20 least tell the court, I never promised you what sentence you
21 would get. And the court asked you under oath if anybody
22 promised you, but you're saying after your guilty plea there
23 were promises made?

24 THE DEFENDANT: Yes. Yes, it happened after the fact.
25 And, yes, you know -- I don't want to combat. It's not about

1 that. I'm just trying to prove my innocence on something. I'm
2 explaining to you that -- you're saying that --

3 MR. BEHE: Well, you know, if you have a lawyer --

4 THE DEFENDANT: Could I speak, please?

5 MR. BEHE: But what I'm trying to do is make sure that
6 you don't hurt yourself.

7 THE DEFENDANT: I'm not.

8 MR. BEHE: You have a lawyer --

9 THE DEFENDANT: I'm not, because I'm speaking from the
10 heart. I'm being honest. And I'm just saying --

11 MR. BEHE: If you have a lawyer on pending criminal
12 charges, you may not want to talk about them.

13 THE DEFENDANT: I'm gonna speak on it because there's
14 no truth to it. It stated that I was under surveillance. I've
15 asked, all right, view that surveillance. You're telling me
16 today that I was selling drugs. You were not there. You're
17 taking the word --

18 THE COURT: It wasn't important at this point. Those
19 are issues that have to be raised in your state sentence.

20 THE DEFENDANT: I know, I know. Your Honor, Sylvia
21 Rambo, I understand that, but it was brought to the probation
22 with a lie. If you read the report, the state trooper must
23 have told him --

24 THE COURT: I'm disregarding that.

25 THE DEFENDANT: Right, right.

1 THE COURT: I've given you three points for acceptance
2 of responsibility. I'm not denying it based on that.

3 THE DEFENDANT: Right, but I don't even want to go off
4 issue. You asked me a question, and I told you, you know, what
5 I was told. When you asked me on the record at that time, I
6 was not promised anything. The only thing --

7 THE COURT: I know, it's an after-the-fact.

8 THE DEFENDANT: After the fact, because there was one
9 more fugitive that's on his caseload. I don't know the guy's
10 government name, but they call him Nice. And it was like, he
11 really want this guy. You know, that's what I was told, he
12 really want this guy, and, you know, this can really get you
13 probation. And I worked hard to do that, and I've done it.
14 I've done it.

15 And I never -- I never thought, like, my guidelines
16 would be this high today, so it's shocking to me, because after
17 I even got that guy, I still was there -- instead of being
18 brought back to court to get sentenced for what I was told, I
19 ended up staying out there and getting more intel for them, and
20 nobody acted on it. So now it's like all that that I've done
21 has just gone to waste, and this could have been prevented.

22 THE COURT: Take a recess.

23 COURTROOM DEPUTY: Court's in recess.

24 THE COURT: The judgment is not final on this.

25 (Recess taken.)

1 THE COURT: I am not going to alter the sentence that
2 I gave. The sentence stands as stated. Court's in recess. Is
3 there a place for confinement?

4 MR. WATKINS: I'm sorry?

5 COURTROOM DEPUTY: Recommendation for placement.

6 MR. WATKINS: No, I don't have one. Mr. Wiltshire.

7 THE DEFENDANT: Well, my family live in New Jersey,
8 New York and New Jersey.

9 THE COURT: Okay. The court will recommend either
10 one, a place of confinement in either New York or New Jersey.
11 New Jersey might be Fort Dix.

12 MR. BEHE: I'm not sure, and I don't know what part of
13 New York he's referring to.

14 THE DEFENDANT: Well, originally I'm from Brooklyn,
15 New York.

16 THE COURT: Well, is there family there in Brooklyn?

17 THE DEFENDANT: Yeah.

18 THE COURT: Okay. Or Brooklyn, New York. Thank you.

19 MR. BEHE: Thank you, Your Honor.

20 THE COURT: Court's in recess.

21 COURTROOM DEPUTY: Court's adjourned.

22 (Whereupon, the proceedings were concluded at 11:17 a.m.)
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CERTIFICATION

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the within proceedings and that this copy is a correct transcript of the same.

Dated in Harrisburg, Pennsylvania, this 4th day of November, 2013.

/s/ Lori A. Shuey
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